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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,772	12/07/2005	Sergio Santini	5002-1083	5939
466	7590	04/26/2010		
YOUNG & THOMPSON			EXAMINER	
209 Madison Street			GUMBBS, KEEGAN ROSS	
Suite 500				
Alexandria, VA 22314			ART UNIT	PAPER NUMBER
			3751	
			NOTIFICATION DATE	DELIVERY MODE
			04/26/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,772	<b>Applicant(s)</b> SANTINI ET AL.
	<b>Examiner</b> KEEGAN GUMBS	<b>Art Unit</b> 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 March 2010.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-8 is/are pending in the application.

4a) Of the above claim(s) 5 and 7 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3,4,6 and 8 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/GS-68)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 and 3** are rejected under 35 U.S.C. 102(b) as being anticipated by Okamoto et al. (US 5,227,510), hereinafter Okamoto.

**Regarding claim 1**, Okamoto discloses a ball-point pen comprising a reservoir (4) communicating with a hole (21, see Fig. 2 and 3) connected to a capillary channel (23) of a tip (2) which is provided with a cavity (22) which seats the ball (1) for writing, this ball (1) being kept pressed against a retaining edge (26) of the abovementioned cavity (22) as a result of the thrust of a compression-resilient spring (6) terminating in a straight portion (6a; see Fig. 3) which is aligned with the longitudinal axis of the ball-point pen and the free end (6a) of which is in contact with the said ball (1), wherein said capillary channel (23) has, inside it, means which, coming into contact with the said straight portion (6a) of the spring (6) to prevent it from becoming inclined with respect to the said longitudinal axis of the ball-point pen (*though not labeled with a reference number it is clear that capillary channel 23 has means, where the capillary channel narrows in Fig. 2, through which the straight part 6a of the spring extends, helping prevent the straight portion from becoming inclined. Portion 5a is in very close contact to the narrow portion shown in Fig. 2. The embodiment showed in Fig. 3 is the same as*

*shown in Fig. 1 and 2 with the portions 5, 51 and 5a in Fig. 1 and 2 being replaced with 6a of Fig. 3), wherein the said capillary channel (23) has a narrow section which, being passed through in the axial direction by the said straight portion (6a) of the spring (6), is designed with dimensions such as to contain said portion in an approximately complementary manner with a minimum amount of play, substantially preventing it from assuming inclined positions with respect to the abovementioned longitudinal axis, and wherein said straight portion (6a) consists of only a single straight portion extending from a distalmost end in contact with the ball (see Fig. 2) towards a coiled portion (6) of the spring, the entire single straight portion being located on the longitudinal axis of the ball-point pen (see Fig. 3).*

**Regarding claim 3,** Okamoto discloses one or more through-grooves (24) are formed in the region of the said narrow section, said through-grooves connecting the cavity (22) inside which the said ball is seated to the hole (21) with which the said reservoir (4) communicates.

3. Claims 1, 3, 4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushima (US 6,220,774 B1), hereinafter Fukushima.

**Regarding claim 1,** Fukushima discloses a ball-point pen comprising a reservoir (5) communicating with a hole (the bore of tip 2; see Fig. 2) connected to a capillary channel (2g; see Fig. 4) of a tip (2) which is provided with a cavity (the portion of 2 containing the ball 3; see Fig. 3) which seats the ball (3) for writing, this ball (3) being kept pressed against a retaining edge (2i) of the abovementioned cavity as a result of the thrust of a compression-resilient spring (4) terminating in a straight portion (4a; see

Fig. 2) which is aligned with the longitudinal axis of the ball-point pen and the free end (4a) of which is in contact with the said ball (3), wherein said capillary channel (2g) has, inside it, means which, coming into contact with the said straight portion (4a) of the spring (4) to prevent it from becoming inclined with respect to the said longitudinal axis of the ball-point pen (*though not labeled with a reference number it is clear that capillary channel 2g has means, where the capillary channel narrows between 2f and 2h of Fig. 2, through which the straight part 4a of the spring extends, helping prevent the straight portion from becoming inclined.*), wherein the said capillary channel (2g) has a narrow section which, being passed through in the axial direction by the said straight portion (4a) of the spring (4), is designed with dimensions such as to contain said portion in an approximately complementary manner with a minimum amount of play, substantially preventing it from assuming inclined positions with respect to the abovementioned longitudinal axis, and wherein said straight portion (4a) consists of only a single straight portion extending from a distalmost end in contact with the ball (see Fig. 2) towards a coiled portion (4) of the spring, the entire single straight portion being located on the longitudinal axis of the ball-point pen (see Fig. 2).

**Regarding claim 3,** Fukushima discloses one or more through-grooves (2gg; see Fig. 4) are formed in the region of the said narrow section, said through-grooves connecting the cavity inside which the said ball is seated to the hole with which the said reservoir (5) communicates.

**Regarding claims 4 and 6,** Fukushima discloses said narrow section is formed by a cylindrical shaped restriction (see Fig. 4; Fig. 4 is the cross section of the narrow section).

**Regarding claim 8,** Fukushima discloses a cross section through the said narrow section on a plane perpendicular to the longitudinal axis defines a circular opening surrounding said straight portion (see Fig. 4 which is the cross section of the narrow section; 2g defines the circular opening through which the straight portion 4a extends.)

***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 3, 4, 6 and 8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEEGAN GUMBS whose telephone number is (571) 270-5608. The examiner can normally be reached on Monday through Friday 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KRG  
AU 3751  
April 19, 2010

/David J. Walczak/  
Primary Examiner, Art Unit 3751